

FILED
12/21/17 8:35 am
CLERK
U.S. BANKRUPTCY
COURT - WDPA

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

MARKS, INC., **Bankruptcy No. 17-23657-GLT**

Debtor. **Chapter 11**

MARKS, INC., **Document No.**

Movant, **Related to Doc. No. 39**

vs.

NO RESPONDENT. **Hearing Date and Time:**

December 21, 2017 at 10:00 a.m.

ORDER APPROVING RETENTION OF REALTOR/BROKER

AND NOW, upon consideration of the **APPLICATION FOR APPROVAL OF REALTOR/BROKER (Application for Approval of Real Estate Brokers)** it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The Application is hereby approved as of the date the Application was filed.

2. Charles Fink, Sunbelt Business Brokers, 5996 Centre Avenue, 1033 Gill Hall, Jefferson Hills, PA 15025 is hereby appointed as **Realtor/Broker** for the Debtor in this bankruptcy proceeding pursuant to the terms described in the Listing Agreements attached to the Application collectively as Exhibit A for the purpose of acting as the Debtor's agent in connection with the sale of business assets, including all fixtures, equipment, goodwill, trademarks, trade names and inventory located at Debtor's two (2) leased commercial locations at 1 Virginia Avenue, Pittsburgh, PA 15211 and 125 Pittsburgh Street, Butler, PA 16001, at which Debtor operates two (2) gas station/convenience store businesses. A broker commission in the amount of 10% on the sale price (but no less than \$15,000.00 per business location) is tentatively approved, subject to final court order. **PROVIDED, HOWEVER, THAT THE PROVISIONS OF THE LISTING AGREEMENTS ALLOWING FOR THE PAYMENT OF COMMISSION IN THE ABSENCE OF A SALE, AND ALLOWING FOR THE REALTOR/BROKER TO RECEIVE 50% OF ANY FORFEITED DEPOSIT/DOWN PAYMENT, ARE EXPRESSLY NOT APPROVED AND ARE HEREBY STRICKEN FROM THE LISTING AGREEMENTS AS APPROVED.**

3. Professional persons or entities performing services in the above case are advised that approval of fees for professional services will be based on other factors as well, including results accomplished, the time and labor reasonably required by the

professional to perform the task(s) involved, the customary fee for similar services, the time limitations imposed by the retention or the circumstances encountered while performing the services, the relationship of the services, if any, to the ultimate bid amount for the subject property, and the extent and nature of awards in similar cases.

4. The approval of any application for appointment of a professional in which certain fees are requested is not an agreement by the Court to allow such fees in the requested amount. Final compensation, as awarded by the Court after notice and hearing, may be more or less than the requested amount based on application of the above criteria.

5. Applicant shall serve the within Order on all interested parties and file a certificate of service.

Date: 12/20/2017



GREGORY L. TADDONIO
UNITED STATES BANKRUPTCY JUDGE

c: **Trustee**
 Debtor
 Counsel
 Realtor/Broker
 Office of the U.S. Trustee

FORM GLT-004 (Rev. 9/16/13)

Certificate of Notice Page 3 of 3
 United States Bankruptcy Court
 Western District of Pennsylvania

In re:
 Marks, Inc.
 Debtor

Case No. 17-23657-GLT
 Chapter 11

CERTIFICATE OF NOTICE

District/off: 0315-2

User: mgut
 Form ID: pdf900

Page 1 of 1
 Total Noticed: 2

Date Rcvd: Dec 21, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 23, 2017.

db +Marks, Inc., 545 Marks Drive, Coraopolis, PA 15108-3388
 r +Charles Fink, Sunbelt Business Brokers, 5996 Centre Ave., 1033 Gill Hall, Jefferson Hills, PA 15025-3315

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
 NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Dec 23, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 21, 2017 at the address(es) listed below:

Amelia R. Brett on behalf of Creditor Brandywine Agency, Inc. abrett@smgglaw.com, ccallahan@smgglaw.com
 Brian M. Kile on behalf of Creditor S&T Bank bkile@grenenbirsic.com, mcupec@grenenbirsic.com;lstanger@grenenbirsic.com
 David A. Strassburger on behalf of Creditor Brandywine Agency, Inc. dstrassburger@smgglaw.com
 David W. Raphael on behalf of Creditor The Huntington National Bank draphael@grenenbirsic.com, mcupec@grenenbirsic.com
 James Warmbrodt on behalf of Creditor JPMORGAN CHASE BANK, N.A. bkgroup@kmllawgroup.com
 John R. Gotaskie, Jr. on behalf of Creditor Eby-Brown Company, LLC jgotaskie@foxrothschild.com, mpayne@foxrothschild.com;hsemmer@foxrothschild.com;mhojdila@foxrothschild.com;vazzarella@foxrothschild.com
 Joseph S. Sisca, on Behalf of the United States Trustee by on behalf of U.S. Trustee Office of the United States Trustee joseph.s.sisca@usdoj.gov
 Office of the United States Trustee ustpregion03.pi.ecf@usdoj.gov
 Robert O Lampl on behalf of Debtor Marks, Inc. rol@lampllaw.com, jschemm@lampllaw.com;jlacher@lampllaw.com;dfuchs@lampllaw.com;eslagle@lampllaw.com;neish51@gmail.com; jcooney@lampllaw.com;rcooney@lampllaw.com;slampl@lampllaw.com;RossLampl@lampllaw.com
 S. James Wallace on behalf of Creditor Peoples Natural Gas Company LLC sjw@sjwpgh.com, Equitablebankruptcy@peoples-gas.com;srk@sjwpgh.com
 T. Lawrence Palmer on behalf of Creditor T. Lawrence Palmer Office of Attorney General, Pennsylvania Department of Revenue lpalmer@attorneygeneral.gov, MarkSPalmerPC@aol.com
 TOTAL: 11